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23 October 1963

**MEMORANDUM FOR THE PRESIDENT**  
**FROM THE ATTORNEY GENERAL**

The following are the points on which there is an issue between the Administration's proposals and the Subcommittee's bill, together with the desirable resolutions:

**Title I -- Voting.**

(A) Part of the provisions established rules of conduct for registrars -- prohibiting the rejection of applicants for minor errors on their forms, requiring written literacy tests (if any literacy test at all is required under state law), and establishing a presumption of literacy. The Administration proposal on this score is limited to federal elections. The Subcommittee broadened it to state elections. The matter is of little practical significance. McCulloch wants state elections out. This is acceptable for a bipartisan approach.

(B) The other provisions of the Title provide for judicial machinery whereby the federal court, either itself or through a referee, can pass on the qualifications of individual Negro applicants while suits are pending. This is important because the only effective cure for the voting problem will be through individual suits in every county where there is a problem. This machinery will provide for some immediate relief. The Subcommittee bill provides for the impounding of all

votes made by Negroes who have been found by the federal court to be qualified, pending the final outcome of the suit. This makes the provision ineffective and is unnecessary since there is ample protection against the possibility (it is very remote) that a federal court will find an unqualified Negro to be qualified. The impounding provision should be deleted.

A possible compromise on this point would be to provide for provisional voting by individuals whose qualifications have not been finally adjudicated at the time of an election. The Subcommittee bill provides for the impounding of all votes, even where there is no conceivable question about the qualifications of individuals.

Title II -- Public Accommodations. The Subcommittee bill added to the scope of this section all business establishments which are licensed by the state. This is probably unconstitutional and in any event brings under federal control for some purposes such business establishments as lawyers' offices, doctors' offices, and other licensed establishments. It should be deleted.

The basic problem of discrimination in public accommodations is in the case of hotels and other lodging places, theaters and other places of amusement, all places that serve food, and gasoline stations. A version of Title II so limited is probably acceptable to McCulloch. It should be an acceptable bipartisan measure.

The Subcommittee also prohibited, under the Fourteenth Amendment, discrimination in any place where discrimination is required as a matter of state law. This is an acceptable use of the Fourteenth Amendment, and would be an acceptable step towards a point raised by the Republicans in the past.

Title III -- Injunction Suits by the Attorney General. This title was added by the Subcommittee. It gives the Attorney General power to bring suit to

enjoin any deprivation of a constitutional right. This includes, for example, the right not to have prayers read in school, other religious rights, various constitutional rights which are accorded business enterprises, and an immense range of other matters. It should be deleted.

A possible acceptable bipartisan way to deal with this would be to move into Title III a provision added by the Subcommittee in Title IV which would give the Attorney General the right to bring suits to enjoin racial discrimination by such state and municipal facilities as parks and libraries. This addition by the Subcommittee is not objectionable.

The civil rights organizations basically support Title III on the theory that the Attorney General could then protect demonstrations. There is no satisfactory way of meeting this demand without federal police power.

Title IV -- Education. The changes made by the Subcommittee in Title IV consist (1) of the elimination of all references to racial imbalance and (2) the addition of the right to bring suit in the case of parks, etc., referred to above. This should be acceptable.

Title V -- Community Relations Service. The Subcommittee put this under the Commerce Department, and limited the number of employees to six, plus a director. The Commerce Department is acceptable. The limitation to six persons is unacceptable. McCulloch appeared receptive to increasing this to 25.

Title VI -- Commission on Civil Rights. The only issue is whether it should be permanent, or limited to four years. The Republicans have pushed for a permanent Commission. This should be accepted.

Title VII - Federally Assisted Programs. The Subcommittee reported our revision of this Title. No specific problem about it has been raised, although a good number of congressmen are very interested.

Title VIII -- Fair Employment. This was added by the Subcommittee. A possible bases for bipartisan agreement upon its inclusion would be to make it enforceable by a trial de novo in the District Court instead of review of the administrative finding in the Court of Appeals. The Subcommittee bill includes the latter, but the Republicans favor the former.

Title IX -- Registration and Voting Statistics. This Title was added by the Subcommittee at the suggestion of the Republicans. The Attorney General testified that it was acceptable but its cost might be very large.

Title X -- Procedure After Removal in Civil Rights Cases. This makes an order refusing to remove a case from a state court to a federal court appealable, if the petition for removal was based on civil rights claims. This was added by the Subcommittee and we have stated we have no objection to it.

No. 1

Q. As the Attorney General, you have become a civil rights symbol to American Negroes. You have been more aggressive in attempting to win rights for us than any other Attorney General in history. With such a record, why would you take the leadership in asking for a weaker civil rights bill?

A. It is misleading to try to ~~misrepresent the character of~~ <sup>misrepresent</sup> the civil rights bill in terms of "strong" and "weak." <sup>100 to 100</sup> When the President submitted the Administration's proposal, Martin Luther King described it as "sweeping" and "forthright", <sup>Rev. King</sup> and said it would go a "long, long way toward the realization of the ideals of freedom and justice for all people." <sup>100 to 100</sup> Other Negro leaders praised the bill as the "strongest" civil rights ~~bill~~ <sup>legislation</sup> ever submitted. One reason we have opposed the Subcommittee's proposal is that it would seriously weaken the voting provisions of the President's bill. But the debate should not be about the relative strength of the proposals but about their relative chances for passage.

The Administration is attempting to write a strong civil rights bill striking at discrimination in voting, public accommodations, public facilities, schools, jobs and federal programs. The Administration wants a bill which will cover all those areas and still win support from enough Republicans and Democrats so that it can be enacted into law.

It is our deeply considered view that the Subcommittee's bill cannot obtain such support and I do not know of any member of the ~~civil~~ <sup>on civil rights</sup> rights leadership conference who claims that it can. Time is of the essence and a bill more like that proposed by the Administration has a much better chance of being enacted.

No. 2

Q. Do you feel the rewording of the accommodations section of the bill will harm the overall purpose?

A. The Subcommittee's version has added a catch-all provision which is unclear and could result in widely divergent enforcement from state to state. On the other hand, the Administration's bill specifies that discrimination would be banned in hotels, motels, restaurants and lunch counters, retail stores and gasoline stations, movie houses and similar places of public amusement. These are the significant sources of discrimination and I believe we should concentrate on them.

0 10  
No. 3

Q. What was your reasoning for not applying protections for Negroes to vote in local and state elections?

A. This is an example of the misunderstanding that have arisen about the Administration's position. The President's bill will cover state elections. One section of the voting provision was confined to federal elections so as not to impede passage of the bill. The President's proposal would effectively <sup>Article C</sup> remove discrimination in voting, both at the federal and state level.

No. 4

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induce  
charges against*

Q. Perhaps, the biggest setback was your decision to give up the fight for Title three, which would have permitted your department to enter brutality, bombing, and intimidation cases in the South. Why did you give up this effort?

A. The Department of Justice already has power to investigate police brutality, bombings and intimidation cases and has done so repeatedly. Since I have been Attorney General, the Department has indicted 44 police officers on charges of misusing their authority to deny individuals' civil rights.

It is a mistake to assume that bombings or isolated acts of brutality by individual police officers can be stopped by injunctions. Injunctions cannot prevent crimes by unknown persons.

Another questionable assumption which Title III raises is that federal court injunctions could eliminate or, at least, curtail some official opposition to racial demonstrations and the abuses that such opposition at times creates.

Title III does not go to the heart of the problem which is eliminating the cause of discrimination. Furthermore, if injunctions were obtained against local police, one result might be that state and local authorities would abdicate their law enforcement responsibilities. We can't replace local police with national police and I don't believe anyone has suggested that, for it would be contrary to our tradition and destructive to our federal system.

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thing...*

Finally, there is again a great deal of opposition to this Title and our objective is a bill which can be enacted. Such a bill would get

*Not to do so we overturned a long-standing  
Department policy of against the filing  
of informations in civil rights cases - a  
procedure which avoids the blocking of a case by a*



No. 4 Cont'd.

at the major causes of discrimination and speed the voting process which, in the last analysis, is the most effective means of changing the attitude of public officials and police.

Meanwhile, the Department of Justice will continue to investigate every <sup>report</sup> ~~instance~~ of police brutality and intimidation, and prosecute as vigorously as it can within the limits of the Constitution.

No. 5

Q. Now that the Justice Department is not seeking such protection for Negroes in the South, what is the remedy? For instance, if Birmingham and Alabama officials refuse to halt the toll of bombings in that southern city, what protection is available for Negroes?

A. The premise of this question is entirely wrong. The Justice Department is protecting Negroes in the South through vigorous investigation of police brutality, ~~bombings~~ bombings and church burnings, and through actions to end discrimination in voting.

It is misleading to assume that Title III <sup>can</sup> ~~must~~ protect Negroes in the South. It would not add to the Justice Department's authority to prevent bombings in Birmingham or any other city. This is another example of the misunderstanding of the Administration's position.

4 L Fair law enforcement in Birmingham or any city, can <sup>only</sup> ~~only~~ be based on a proper relationship between police and the citizens. In Birmingham, we have recommended repeatedly that Negro policemen be hired. That would be the first step in reestablishing confidence and communication and would provide the necessary expression of good faith and protection for the Negro citizens in that city.

No. 6

Q. By withdrawing this section, doesn't it appear that the government is more interested in allowing Negroes to enter public places, as a means of stopping demonstrations, than it is in guaranteeing Negroes the right to vote in the South?

A. This question represents another misunderstanding of the issues involved. Title III does not have anything to do with guaranteeing the Negroes the right to vote. The Department already has authority to move against discrimination in voting and has done so in more than <sup>100</sup> ~~seventy~~ counties in the South since I have been Attorney General.

The Administration's bill would speed this process. The Subcommittee's proposal would weaken the government's ability to end discrimination in voting and that is one reason why we have opposed-

we are not satisfied  
with it.

No. 7

Q. In the event of passage of the legislation, as recommended by you and the President, what then will be the unresolved civil rights problems of the nation? Do you feel your bill will greatly expand the opportunities for Negroes in America?

A. The legislation will provide legal remedies in the field of voting, education, employment and public accommodations. But it will not solve the basic problems of poverty and unemployment. Education, housing and employment will remain as the great unresolved civil rights problems. The bill will be a major step in expanding opportunities for Negroes in America, but we still will have a long, long way to go. I think education and a revitalized economy are the keys.

No. 8

Q. Do you have a change of heart, or a change of feelings in regard to civil rights now compared to when you first took office? Would you explain?

A. No. I said in my statement before the House Judiciary Committee two weeks ago:

"The legal remedies concern every American's right to vote, to go to school, to acquire a job and to be served in a public place without discrimination.

"But the legislation embodies even more than legal remedies. And I believe this may be its most significant contribution. For this legislation has become an article of faith, testing whether white Americans can put aside sectional and political differences to solve racial problems which can no longer be ignored.

"It is a test in the fullest sense of the term -- a test which will determine in the eyes of the non-white population here in the United States and indeed abroad whether the white population, which controls the economy and the political life of this country, believes in the Declaration of Independence and the Constitution, or just mouths the hallowed words of these two documents.

"This is a national crisis which demands that we put aside partisan considerations. . . ."

This represents my point of view.

No. 9

Q. Do you feel certain aspects of Negro leadership have been unreasonable in demands for civil rights for legislation? Is there a compromise stage between the administration, the law-making body and civil rights groups? Who wins and who loses?

A. I think Negro and white leaders all have the same interest -- obtaining a strong, meaningful, civil rights bill. Reasonable men may disagree as to the best way to achieve this goal, but if an effective civil rights bill is not enacted, the whole country -- not just the Negroes, will be the loser.

No. 10

Q. Do you regard Dr. M. L. King, Jr. as an agitator?

A. He is "agitating" for equal rights and equal opportunity for all citizens. If that is being an "agitator", I guess he is.

No. 12

Q. The Justice Department has some 300 guards protecting underworld informer Joseph Valachi. Isn't this incongruous when you stop to think that Negroes are beaten in the South trying to vote -- and have no hope of getting protections?

A. The Department doesn't have 300 guards protecting Joseph Valachi, or anywhere near that number. The Department <sup>has</sup> acted repeatedly to protect Negroes from harassment and physical injury while seeking to register to vote. Of the 47 voting suits filed so far, twelve have been brought to protect Negroes against intimidation. Federal authority was used to protect the freedom riders and to enforce court orders at the University of Mississippi and the University of Alabama. At the University of Mississippi, where 29 U.S. Marshals were wounded by gunfire and ~~about~~ 150 were injured, marshals and soldiers remained on duty throughout the 1962-63 school term to prevent interference of court orders that James Meredith attend the University.

Federal troops were sent to Alabama last May to prevent the Birmingham agreement from being sabotaged. This government will do whatever must be done to protect the lives of its citizens and to uphold the law of the land.



No. 13

Q. Voting is a channel for advancement for Negroes. Do you feel Justice has done enough -- quick enough -- to make any real gains in the South?

A. When we came into the office, there had been ten voting suits filed throughout the South. Now the total is 47. We have investigations underway in more than 50 ~~other~~ other counties. The principle that all citizens are entitled to ~~vote~~ vote without discrimination is being accepted in almost all parts of the South.

In Montgomery, ~~Alabama~~ <sup>and</sup> Macon County, ~~Georgia~~ <sup>Ala.</sup>, in Haywood and Fayette Counties, Tennessee, East Carroll Parish, Louisiana, and Baker County, Georgia and counties throughout the South -- Negroes are voting where they have never voted before and they are voting in accelerating numbers. Meanwhile, we have continued to give prime attention to this problem in other counties. We have suits pending which challenge discriminatory registration procedures in the entire states of Mississippi and Louisiana.

Thousands of Negroes who couldn't vote before can vote now and the number is growing by the day.

Every case requires a great deal of work and considerable time.

the President's bill would provide for speeding of court action in voting suits. It is regrettable that there was no start to end discrimination in voting until 1960.

No. 14

Q. Do you feel Negroes are going about getting their rights in the proper, or right manner. If not, why and how should they go about it?

A. I respect the Negro leadership's restraint. I think their ability and wisdom was exemplified to the country by the dignity as well as the intensity of the March on Washington last August.

No. 15

Q. Do you regard race relations as worsening in the U. S. and the prospects of violence edging closer because of the widening orbit of demonstrations and unrest? How can the government cope with such a situation? And should Negroes temper their campaign?

A. A strong civil rights bill will go a long way to remove the causes of the demonstrations. The present situation is a test of the ability of Negroes and whites to make progress in resolving racial problems within a framework of law and justice. Demonstrations are understandable particularly when there is no other way of attracting attention to long-standing grievances, but unreasoned demonstrations leading to violence, widen the differences between whites and Negroes and increase mistrust on both sides.

No. 16

Q. How do you regard the conditions in the South? Do you feel there is an improvement in Negro rights?

A. I think it is a mistake to talk about the South as though it were a single anti-Negro, anti-civil rights unit. There are places throughout the South where leaders and citizens understand their responsibilities to all citizens. For example, in the past five months, since the President held a series of White House meetings, 361 Southern cities have voluntarily desegregated at least some of their restaurants, hotels or similar public accommodations. That is 65% of the major cities of the South. So, on the whole, I think there is an improvement but I don't think there is any cause for over-optimism. Turn those statistics around and they show you that there has been no desegregation of any kind in 35% of the cities.

No. 17

Q. Mississippi and Alabama often are referred to as the worse areas for progress. Do you feel a federal army project might be necessary for progress in this area in order to accelerate the timetable of several hundred years set forth by Mississippi leaders?

A. I would hope that Negro voters who are increasing in both states will be able to reverse that timetable.

No. 18

Q. Do you feel whites in America realize the Negro's plight? Do you feel they are really concerned? And do you feel the Justice Department has done enough in the area of dramatic education and information to point up the problem?

A. Yes, I think increasingly so. The role of the churches, in exercising their moral leadership on both sides has been both great and encouraging. The Department of Justice has no responsibility to dramatize problems; our job is in the courtroom. But whatever the case, I think the American public is now aroused and aware.

No. 19

Q. Unlike the President, you have not hired a Negro to your personal staff? Since you have done so much in this area, don't you feel the addition of a qualified person would better enable you to gain a fuller scope of the problem?

A. "Personal staff" is a meaningless term. Negroes hold important positions in the Department of Justice and participate in policy decisions affecting civil rights, criminal cases and many other matters. They have been selected because of their ability and character—not because they are Negroes.

No. 29

Q. You have probably done the most for Negroes and you probably have been criticized the most by Negroes. Do you feel discouraged or feel that your efforts have not been appreciated? Do you feel Negro civil rights leaders should back you in trying to enact the administration bill?

A. When it comes to criticism, I think I have to agree with Lincoln that if the end brings me out alright, what is said against me won't amount to anything, but if the end brings me out wrong, ten angels swearing I was right won't make any difference.



25 October 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

I am glad to inform you that we have won very substantial judgments from Judge Dawkins in Jackson Parish and Madison Parish (two cases), Louisiana. The judge went far beyond what he had done in any other case in giving the registrars instructions in detail on the manner in which Negro applications should be handled.

It is my guess that Judge Dawkins' action is based upon a desire not to have to repeat the process of personally handling Negro applications, as he had to do in East Carroll Parish. He has been a conservative judge in the past.

These cases were well-prepared and well-tried, principally by Frank Dunbaugh, Richard K. Parsons, and Dave Norman.

RM

(J) (1) AGK  
October 30, 1963

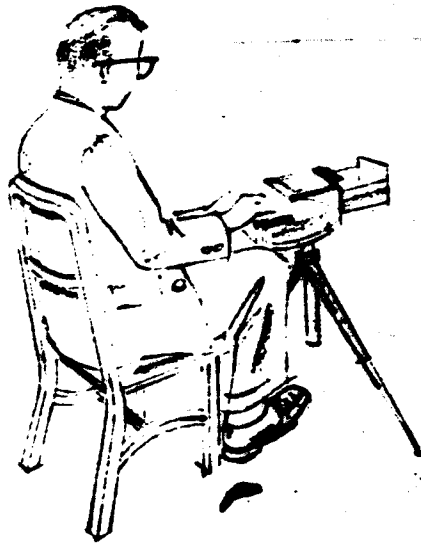
MEMORANDUM FOR THE ATTORNEY GENERAL

The attached memorandum from Henry Putzel is for your information, on the pet food food case in California.

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STENOTYPE TRANSCRIPT  
OF  
PRESS CONFERENCE



ALDERSON REPORTING COMPANY, INC.  
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Washington, D. C.  
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REMARKS OF THE ATTORNEY GENERAL  
ROBERT F. KENNEDY, FOLLOWING  
CONGRESSIONAL HEARING ON CIVIL  
RIGHTS BILL.

MR. KENNEDY: In some respects, the Subcommittee's bill gives extended authority to the Department of Justice and the Executive Branch of the Government in areas which have not been adequately considered, and which are not the problem that we are facing at the present time, but would extend the authority of the Department of Justice beyond which it has never been extended in the past, and in my opinion in a dangerous fashion.

What we have to do is to have legislation which will be supported by both Republicans and Democrats. This legislation will not be passed by Democrats, and without the support, help and assistance of probably sixty to eighty Republicans in the House of Representatives. . . . and maybe 21 to 23 Republican Senators in the Senate, we can't get the legislation by. So Democrats and Republicans working together, and there are those equally interested in the Republican Party and the Democratic Party, who are interested in this legislation. They will have to work together to agree on the legislation and get it passed.

COMMENTATOR: Mr. Attorney General, can you tell us the reasons for your appearance and the substance of your testimony here today?

MR. KENNEDY: I appeared before the Subcommittee of the full Committee some time ago. We are anxious to pass this legislation, and we feel the only way we are going to have legislation in this field, which I feel is absolutely essential, is through bipartisan support.

The Subcommittee considered that the President's original suggestions and recommendations as far as legislation and changed it in some places quite considerably. The full Committee has been discussing the Subcommittee's recommendations, and then they decided they wanted to hear from me, so I came down.

There are some of the Subcommittee's recommendations that we support. There are other recommendations which we feel under the circumstances go too far. We think there are other changes that have been made which change the thrust of the bill and will not be as effective. These matters I pointed out. I said that we favor the President's bill as it was originally sent up in June, that we need the legislation and we need it quickly, and that I would hope that the Committee and Congress would handle it expeditiously. I think it is essential in the field of voting, in the field of education, the field of public facilities, in the field of employment that we get legislation. I think it is overdue now, and I think it is essential that we get on with it.

COMMENTATOR: What do you think will be the results

now if it is not passed this year?

MR. KENNEDY: I think that we will have great difficulty. I think there are those of us who are white who are going to fail in meeting our responsibilities. I think that we discuss and talk about the Constitution and the Declaration of Independence, but if we continue to tolerate the treatment of a large part of our population as second class citizens, I think then these documents become empty phrases.

So I think we who are white will have failed, and I think that those who are not white, the non-white portion of our population will perhaps, some of them, at least, lose confidence that their government and those who are charged with responsibility, and their fellow citizens will not redress their grievances and injustices which have existed for such a long period of time. I think that will be very damaging.

COMMENTATOR: And yet you say that you feel in some respects subcommittee bill (garbled)

MR. KENNEDY: Well, one, in the area of voting rights they made some recommendations because of the long period of time it takes for some of these cases to be heard and acted upon that Negroes lose their right to vote in elections, which in some cases have gone on for three years -- elections have gone by and still individual Negroes have not been

permitted to vote in the election. The recommendations of change which we made are based on the original suggestion of the President, and would remedy that situation.

I think Title 2, the recommendations that came out of the Subcommittee, extend this to every time, form and type of business that exists within a state. It allows the Federal Government to be involved in all of those operations, even private schools or private hospitals, law firms, doctors, all kinds and types of private business, and I think that that would be unnecessary and a dangerous extension of this authority.

I have raised very serious question and stated that we have opposed enactment of Title 3, which I think also extends the authority of the central government to bring suits far beyond the authority that the government has at the present time.

The rest of the bill we would support with some minor changes.

QUESTION: What about the proposal that would exclude the state and local elections from the jurisdiction of the Justice Department?

MR. KENNEDY: I am not aware of that. I am not certain what you refer to.

QUESTION: Isn't a part of this simply the political problem of getting a tougher bill through this Congress, and

that you are just being realistic about it?

MR. KENNEDY: No. No, I think basically the problem is whether you want to extend the authority of the Federal Government into all of these areas. This might be the situation at the present time, and people might be concerned about civil rights, and I think rightfully so, but I think we should be careful about what this is going to lead to as far as the future is concerned, as far as public accommodations, for instance, motels, hotels, retail stores, restaurants, or theaters, the sporting arenas, but the problem is not doctors and lawyers and private schools. So I think that that is a very major problem and is why we did not make the suggestion in the beginning, and why we are not making that recommendation at the present time. I don't think it should be just whether you are for or against civil rights, or based on whether you are for or against the Federal Government getting into all of these different fields. I don't think that is the criterion.

I think it should be the type of legislation that would meet the problem. Legislation that was suggested originally, recommended by the President, which at that time, and I think still from an analysis of it, was hailed as a major step forward which would deal with the problem of the difficulties and troubles which exist. That in my judgment is what should be done.



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QUESTION: How do you feel the full committee will react to your proposals today after having seen the subcommittee's proposals? Do you think they will be perhaps antagonized by your recommendations?

MR. KENNEDY: What we suggested and recommended in our judgment is best for the country. It is what we thought was best for the country back in June, and what we feel is best for the country, and can be passed, will be enacted at the present time. What I want at this time is a bill . . .

(Recording ended mid-sentence.)

END

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*5. J.*

Mr. Charles S. Whittington  
President  
Yazoo Valley Oil Mill, Inc.  
Lock Drawer 927  
Greenwood, Mississippi

NOV 1 1963

Dear Mr. Whittington:

Thank you for your letter of October 22. The telephone conversation referred to may be material in connection with the pending criminal contempt charges brought against Governor Barnett and Lt. Governor Johnson at the direction of the United States Court of Appeals for the Fifth Circuit. I understand it is also the subject of current political controversy in Mississippi. Accordingly I do not think it would be appropriate for me to comment in any way at this time on the newspaper account you have enclosed.

Very truly yours,

ROBERT F. KENNEDY

Attorney General

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